

FILED & ENTERED

JUN 22 2018

CLERK U.S. BANKRUPTCY COURT  
Central District of California  
BY tatum DEPUTY CLERK

**NOT FOR PUBLICATION**

**UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
LOS ANGELES DIVISION**

In re:

ARTURO GONZALEZ

Debtor.

WESLEY H. AVERY, Chapter 7 Trustee,

Plaintiff,

vs.

ARTURO GONZALEZ,

Defendant.

Case No. 2:15-bk-25283-RK

Chapter 7

Adv. No. 2:16-ap-1037-RK

**ORDER DENYING DEBTOR'S MOTION  
TO COMPEL DISCOVERY**

Date: July 3, 2018

Time: 2:30 p.m.

Courtroom: 1675

Pending before the court is the motion of Debtor Arturo Gonzalez to compel discovery, namely, a documents subpoena to Gregory Wells, who is not a party in this case, and Mountain West Financial, which is not a party in this case. Debtor noticed his motion for hearing before the court on July 3, 2018 at 2:30 p.m. The Chapter 7 Trustee, Wesley H. Avery, filed an opposition to the motion on June 19, 2018.

Having considered the moving and opposing papers, the court determines that pursuant to Local Bankruptcy Rule 9013-1(j)(3), oral argument on the motion is not necessary, dispenses with oral argument on the motion, vacates the hearing on July 3, 2018, takes the motion under submission and rules on the motion and denies it without

1 prejudice for Debtor to comply with the procedures of Local Bankruptcy Rule 9020-1.  
2 The court determines that the motion should be denied because Debtor uses the wrong  
3 procedure to compel compliance with the subpoenas. Debtor's motion to compel  
4 discovery under Federal Rule of Bankruptcy Procedure 7037 and Local Bankruptcy Rule  
5 7026-1 is not the proper procedure to enforce subpoenas, which are contempt  
6 proceedings. The proper procedure is a motion for an order to show cause re: contempt  
7 under Local Bankruptcy Rule 9020-1 as Local Bankruptcy Rule 7026-1(c)(5) states: "LBR  
8 [Local Bankruptcy Rule] 9020-1 governing contempt proceedings applies to a discovery  
9 motion to compel a non-party to comply with a deposition subpoena for testimony and/or  
10 documents under FRBP [Federal Rules of Bankruptcy Procedure] 7030 and 7034." Just  
11 because Debtor is a self-represented party appearing without counsel, he is not excused  
12 from following the rules of this court. Local Bankruptcy Rule 1001-1(d).

13 If Debtor intends to file a motion for order to show cause re: contempt, he must  
14 first read and fully comply with Local Bankruptcy Rule 9020-1. This means that he may  
15 file a motion under Rule 9020-1, but must not notice it for hearing because the court will  
16 read the papers and then determine whether a hearing should be set as stated in Local  
17 Bankruptcy Rule 9020-1(d)(2). If Debtor files a motion under Local Bankruptcy Rule  
18 9020-1 and does not fully comply with the requirements of the rule, the court may deny  
19 the motion on the papers, and the court may impose sanctions, including monetary  
20 sanctions.

21 Because the hearing on the motion on July 3, 2018 is vacated, the motion is taken  
22 off the hearing calendar on July 3, 2018, no appearances on the motion are required on  
23 July 3, 2018, and the court will not call the motion for hearing on July 3, 2018 and will not  
24 hear any argument from the parties relating to the motion on July 3, 2018. Because the  
25 motion relates to the trustee's objection to Debtor's homestead exemption pending in the

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1 main bankruptcy case, the court orders that this order be filed and entered in the main  
2 bankruptcy case, No. 2:15-bk-25283 RK Chapter 7, as well as in the adversary  
3 proceeding, No. 2:16-ap-01037 RK, where the motion was filed.

4 IT IS SO ORDERED.

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23 Date: June 22, 2018



24 Robert Kwan  
25 United States Bankruptcy Judge  
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